

US PTO Customer No. 25280

Case No. 5390

REMARKS

Claims 1-7, 9 and 10-23 are pending within this application. Claims have been amended as shown. Claims 11-23 have been added. Thus, Claims 1-7, 9, 10-23 are subject to continued examination.

35 U.S.C. 112 SECOND PARAGRAPH REJECTION

Claims 6, 7, 9 and 10 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 6, 7, 9 and 10 are hereby amended to recite a drawing temperature of step "d", thereby making these claims definite. Thus, reconsideration and withdrawal of the prior 112 rejection is requested.

OBVIOUSNESS REJECTION

Claims 1-4, 6, 7, 9 and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Fujishita et al. (U.S. Patent 4,560,734) in combination with either Morin et al. (U.S. Patent 6,656,404) or Inoue (JP 2001-081628). Continued rejection on this basis is respectfully traversed and reconsideration is requested.

As a preliminary point, Applicants note that the present application and the cited Morin patent have at all times been commonly owned by the same entity. Thus, pursuant to 35 U.S.C. Section 103(c), Morin is believed to be unavailable as a reference to support an obviousness rejection.

US PTO Customer No. 25280

Case No. 5390

Accordingly, withdrawal of all obviousness rejections based on Morin is requested at this time. Of course, to any extent that the Examiner requires proof of common ownership, documentation can be provided. As regards the outstanding rejection based on Fugishita in combination with Inoue, it is respectfully submitted that this combination does not teach or suggest all elements of the claims as written. The current application (Claim 1, Step "b") recites an immediate quenching of the film or tube of step "a" to a temperature which prevents orientation of polypropylene crystals. This quenching step which rapidly cools the polypropylene and arrests orientation immediately after extrusion appears to be at odds with the teachings of the cited art.

Applicants note that Fugishita teaches "As for the process for advancing the crystallization of the film prior to stretching, ...slow cooling is suitable for cooling the film just after extruded; hence air cooling manner is more advantageous than water cooling manner, and in the case of water cooling manner, cooling has been advantageously carried out at a relatively high temperature of water." (See col. 2, lines 10-17). Furthermore, in example 1 of the reference (See col. 8, lines 49-51), which is the only place where water temperature is specified (40°C), there is no addition of a nucleating agent. The secondary reference to Inoue et al. teaches "the nucleating additive used for this invention speeds up [crystallization]" (See page 4, line 6). Thus, since Inoue advocates addition of a nucleating agent to speed up crystallization, it appears to be counter-intuitive in this case to add a

US PTO Customer No. 25280

Case No. 5390

nucleating agent and to then immediately cool so as to prevent crystal orientation.

It is axiomatic that all elements of a claim must be taught or suggested by the prior art in order to support a *prima facie* case of obviousness. In the present case, there appears to be no teaching or suggestion of incorporating the claimed process step of immediately quenching the film or tube of step "a" to a temperature which prevents orientation of polypropylene crystals in combination with the claimed use of nucleating agent. That is, the prior art does not appear to suggest any rational for adding a nucleating agent and then immediately quenching to a temperature which prevents orientation of polypropylene crystals. In this regard, Applicants respectfully note that MPEP section 2143 specifically states that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In the present case, it is respectfully submitted that the prior art does not provide the requisite suggestion to support continued rejection. Certainly there is no suggestion of combining such quenching of a polypropylene formulation containing a nucleating agent with subsequent high temperature drawing as presently claimed.

In light of the above, it is submitted that the prior art references when combined do not teach or suggest the claimed invention as a whole. Thus it is submitted that the obviousness rejection should not be maintained.

US PTO Customer No. 25280

Case No. 5390

In light of the fact that the Morin reference is believed to be unavailable to support a standard obviousness rejection, if required to progress examination Applicants will be willing to provide a terminal disclaimer if requested to obviate any obviousness-type double patenting.

Should any issues remain after consideration of this Amendment, the Examiner is invited and encouraged to telephone the undersigned at his convenience.

Fee Authorization: In the event that there are additional fees associated with the submission of these papers, Applicant hereby authorizes the Commissioner to withdraw fees from Deposit Account No. 04-0500.

Extension of Time: In the event that additional time is required to have the papers submitted herewith for the above referenced application to be considered timely, Applicant hereby petitions for any additional time required to make these papers timely and authorization is hereby granted to withdraw any additional fees necessary for this additional time from our Deposit Account No. 04-0500.

Respectfully submitted,


John E. Vick, Jr.
Registration No. 33,808

MILLIKEN AND COMPANY
920 Milliken Road, M-495
Spartanburg, SC 29303
Telephone (864) 503-1383
Facsimile (864) 503-1999

CERTIFICATE OF TRANSMISSION

I hereby certify that the correspondence is being transmitted to The United States Patent and Trademark Office at 703-872-9306 on June 11, 2004.